

REMARKS

I. Restriction as to Inventions

The Examiner has issued a restriction requirement stating that the application claims six separate inventions. Specifically, the Examiner identifies the six inventions as being:

- Group I: Claims 1-22, drawn to a library of nucleic acid constructs;
- Group II: Claims 23-35, drawn to a Library of expression vectors;
- Group III: Claims 36-48, drawn to a library of cells;
- Group IV: Claims 49-57 and 78, drawn to a kit comprising a library of nucleic acid constructs;
- Group V: Claims 58-67 and 79, drawn to a library of expression vectors; and
- Group VI: Claims 68-77 and 80, drawn to a library of cells;

Pursuant to 37 C.F.R. §1.142, Applicants elect Group I (Claims 1-22) without traverse and cancels without prejudice the claims of Groups II-VI (Claims 23-80).

II. Restriction as to Subgenus

The Examiner has also required that upon selection of any of Groups I-VI, Applicants must further elect a specific subgeneric composition from numerous groups of genus. Applicants hereby elect without traverse the following subgenus:

1) within the genus of cis elements, a subgenus of cis elements listed in the table shown in Figure 2 under the column labeled as "Cis-Element";

2) within the genus of a promoter sequence 3' to a cis element, a subgenus of the promoter disclosed in the Specification on page 18, lines 15-21;

3) within the genus of reporter sequence 3' to a cis element, a subgenus of reporter sequence listed in the table shown in Figure 2 under the column labeled as "Reporter Sequence"; and

4) within the genus of a cis element sequence-given reporter sequence, a subgenus of cis element sequence-given reporter sequence combinations resulted from combining the cis element with the reporter sequence listed in the same row in the table shown in Figure 2, e.g., a combination of SEQ ID NO: 1 and SEQ ID NO: 31 listed in the first row of the table in Figure 2.

III. Election of Variants

The Examiner has also required Applicants to elect a single variant for prosecution on the merits. Applicants hereby elect without traverse the following variant:

1) reporter sequences having variable sequences listed in Figure 2 under the column labeled as "Reporter Sequence" and the reporter sequences further comprising priming sequences 5' and 3' relative to the variable sequences and such priming sequences are conserved within the library;

- 1) at least 10 different cis elements;
- 2) at least 2 copies of the cis element;
- 3) cis element having a length of 5-100 base pairs;
- 4) the variable sequence of the reporter sequence being at least 15 bases;
- 5) the variable sequence of the reporter sequence being equal to or shorter than 2000 bases;
- 6) at least 10 different reporter sequences;
- 7) at least 10 different reporter proteins;

IV. Election of Species

The Examiner has also required Applicants to elect a single species for prosecution on the merits. Applicants hereby elect without traverse the following species:

1) the reporter sequences listed Figure 2 under the column labeled as "Reporter Sequence"; and

2) a reporter protein that can be expressed by the cell as disclosed in the Specification on page 19, lines 23-27.

Accordingly, claims 5-7, 9-10, 12-13, 15-16 and 18-19 are withdrawn as being directed to the non-elected species or variants pursuant to 37 C.F.R. §1.142(b). However, Applicants reserve the right pursuant to 37 C.F.R. §1.141 to pursue claims to the non-elected species, variants, or subgenus in this application in the event that a generic claim is found to be allowable.

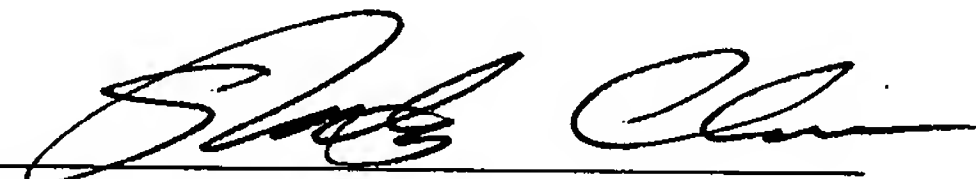
Applicants also reserve the right pursuant to 35 U.S.C. §121 to file one or more divisional applications directed to the non-elected species or subgenus during the pendency of the present application.

CONCLUSION

The Commissioner is authorized to charge any additional fees which may required, including petition fees, or credit any overpayment to Deposit Account No. 23-2415 (Attorney Docket No. 26757-707).

WILSON SONSINI GOODRICH & ROSATI
Respectfully submitted,

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By: 
Shirley Chen, Ph.D.
Registration No. 44,608

650 Page Mill Road
Palo Alto, CA 94304-1505
(650) 565-3856
Client No. 021971